

REMARKS

This paper is submitted in response to the final Office Action for the above-identified application mailed 30 September 2008.

Under cover of the Office Action, the rejection of the claims for obvious-type double patenting in view of the Applicants' U.S. Patents Nos. 6,017,354; 6,090,123; 6,329,778; and 6,752,816 was continued. The Office Action did, however, state that the claims would be allowable if appropriate Terminal Disclaimers are filed. The Applicants thank the Examiner for the favorable review of this application.

Initially under cover of this Response, the title of this application is amended so to be directed to a title more closely related to the presently claimed invention.

Also in this Response o this Office Action, minor amendments are made to Claims 97, 102, 104, 105, 107, 114, 116, 117, 121 and 1223 for editorial reasons. These claims do not change the nature of the invention to which these claims are directed.

The Applicants now rejoin previously withdrawn Claims 103, 114 and 122. With the filing of this paper, the claims from which the withdrawn claims depend are in condition for allowance. Per the *Manual of Patent Examining Procedure*, (MPEP,) Sec. 821.04, it is submitted that this makes the withdrawn claims ripe for rejoinder.

It is believed only minimal added burden is now placed on the Office to review rejoined claims for patentability. If, however, the Office reaches an alternative conclusion with regard to this matter, a call to the undersigned appointed

representative will result in a telephonic cancelation of the claims.

The Applicants now address the obvious-type double patenting rejection.

According to the *MPEP*, Sec. 804, a nonstatutory double-patenting rejection is only appropriate when:

at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s).

In the present situation, none of the claims of the issued patents are directed a surgical tool system with "plural" handpieces let alone one where the "plural" handpieces are simultaneously connected to the control console.

The invention that is the subject of the claims of the present application could be used in combination with the inventions of the claims of the issued patents. The presently claimed invention therefore is neither a substitution for nor a variation of the inventions of the cited claims.

Accordingly, the Applicants submit the present claims are not suggested by the references claims and therefore should not be subject to obvious-type double patenting rejections.

Nevertheless, the Applicants now submit the Terminal Disclaimers required to overcome the obvious type double patenting rejections. These submissions are solely to expedite allowance of the present application. At least for the reasons set forth above, these submissions should not be considered an admission that present claims are obvious in view of the referenced claims.

The submission of these Terminal Disclaimers places the claims of this application in an allowable form. It is therefore respectfully submitted that all parts of this application are in an allowable state.

The Applicants acknowledge that this paper is being submitted in response to the issuance of a final Office Action. This paper serves to comply with the form requirements set forth in the Office Action regarding how this application can be placed in condition for allowance. Accordingly, per 37 CFR Sec. 1.116(b), it is respectfully submitted that this amendment is ripe for entry.

In conclusion, the Applicants respectfully request entry of this Response and the accompanying Terminal Disclaimers. Since the entry of these papers places this application in an allowable form issuance of a Notice of Allowance is also requested.

Respectfully submitted,

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Enclosures: Terminal Disclaimers (4)